

REMARKS/ARGUMENTS

Upon entry of the above amendment, claims 13, 16, 18, 21, 23, 26, 28, 31, 32, and 35 will have been amended and submitted for consideration by the Examiner. Thus, claims 13-35 remain pending. In view of the above, Applicant respectfully requests reconsideration of the outstanding rejection and withdrawal of all the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided.

Turning to the merits of the action, the Examiner has rejected claims 13-35 under 35 U.S.C § 103(a) as being unpatentable by OKAMOTO et al. (U.S. Patent No. 5,805,678) in view of YOSHIDA et al. (U.S. Patent No. 6,463,132 B1) and in further view of HAMAKI (U.S. Patent No. 5,745,487).

As noted above, Applicant has amended claims 13, 16, 18, 21, 23, 26, 28, 31, 32, and 35. Claims 13-35 remain pending. Applicant respectfully traverses the above rejection based on the pending claims 13-35 and will discuss the rejection with respect to the pending claims in the present application, as will be set forth hereinbelow. The amendments to the claims merely clarify the subject matter recited in the pending claims, but do not narrow the scope of the claims.

Applicant's claims 13-15, 18-20 and 23-25 relate to a receiving modem, a communication control apparatus and a method for controlling a communication having a

P19202.A11

receiving modem that transmits a facsimile control signal, communicates with a transmitting modem based on the communication procedure specified in ITU Recommendation V.8 when a CM signal is detected while awaiting the response signal to the facsimile control signal, and data communicates with the transmitting modem when a signal used in data communication is detected while awaiting the response signal to the facsimile control signal. The data communication does not include voice communication and is in accordance with a defined communication procedure.

Applicant's claims 16-17, 21-22 and 26-27 also relate to a receiving modem, a communication control apparatus and a method for controlling a communication having a receiving modem that transmits a data communication signal, detects a response signal to the data communication signal transmitted from the transmitting modem, communicates with the transmitting modem based on the communication procedure specified in ITU Recommendation V.8 when a CM signal is detected while awaiting the response signal to the data communication signal, and data communicates with the transmitting modem, when a signal used in data communication is detected while awaiting the response signal to the data communication signal. The data communication does not include voice communication and is in accordance with a defined communication procedure.

Thus, each of Applicant's claims require, inter alia, data (not voice) communication or V.8 communication.

On the contrary, OKAMOTO et al. relates to voice or facsimile communication via a wireless subunit, while YOSHIDA et al. relates to a receiving modem which executes a

P19202.A11

facsimile communication and a voice or speech communication based on a capability of the receiving party.

However, as the Examiner admits in the outstanding Official Action mailed on August 25, 2004, OKAMOTO et al. and YOSHIDA et al. in combination still do not teach a data communication not including voice communication. Thus, the pending claims are clearly distinguished over the combination of OKAMOTO et al. and YOSHIDA et al.

Further, OKAMOTO et al. connects the parent unit to the facsimile unit when a CNG signal is detected, and connects the parent unit to the telephone unit for speech (or voice) communication when a CNG signal is not detected (see. Figs 9-11). This is rather remote from the present invention.

YOSHIDA et al. transmits an ultra high speed capability indication signal to a facsimile machine at a calling end. YOSHIDA et al. transmits a high speed capability signal indicating the optimum mode available in the called equipment when an ultra high speed capability signal is detected as a response to the ultra high speed capability indication signal. YOSHIDA et al. transmits a CED or DIS signal to the facsimile machine at the calling end when the ultra high speed capability signal is not detected as the response to the ultra high speed capability indication signal (see. Fig. 3, col.6, lines 23-62). In other words, neither of OKAMOTO et al. and YOSHIDA et al. disclose a modem which transmits a signal for a type of a communication (e.g., facsimile control signal, as recited in claim 13), detects a signal for another type of communication (e.g., a

signal used in data communication, as recited in claim 13) while awaiting a response to the signal, and performs the another type of communication (e.g., data communication, as recited in claim 13), according to the detected signal. Thus, the features of the pending claims are even more clearly distinguished over OKAMOTO et al. and YOSHIDA et al. in combination.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 13-27 are clearly distinguished over the combination of OKAMOTO et al. and YOSHIDA et al. cited by the Examiner. Thus, the pending claims are submitted to be patentable over the Examiner's proposed combination.

To overcome the admitted shortcoming of the combination of OKAMOTO et al. and YOSHIDA et al., the Examiner relies upon the teachings of HAMAKI.

However, HAMAKI relates to mixed data communications according to TDMA/FDD. HAMAKI switches between different types of communications during one communication (i.e., transmission). However, the present invention does not relate to the mixed data communications, since the present invention does not switch between different types of communications during one transmission. Rather, the present invention selects one type of communication from many types of communications. Thus, the pending claims are clearly distinguished over HAMAKI.

Further, in HAMAKI, when the first station transmits an "acknowledgment-type mode switch instruction" to the second station, the first station detects an "acknowledgment instruction" from the second station as a response. Similarly, when

P19202.A11

the first station transmits an "acknowledgment-type mode switch instruction" to the second station, the first station detects an "acknowledgment instruction" from the second station as a response (see. col.2, lines 37-67; col.3, lines 1-43; and Fig.3). In other words, in HAMAKI, the "acknowledgment-type mode switch instruction" and the "acknowledgment instruction" are a pair of signals utilized in the mixed data communications. In HAMAKI, a signal other than the "acknowledgment instruction" is not supposed to be detected during awaiting a response to the "acknowledgment-type mode switch instruction". On the other hand, the present invention transmits a signal for a first type of a communication (e.g., facsimile control signal, as recited in claim 13), detects a signal for another type of communication (e.g., a signal used in data communication, as recited in claim 13) while awaiting a response to the signal (e.g., facsimile control signal, as recited in claim 13), and performs the another type of communication (e.g., data communication, as recited in claim 13), according to the detected signal. Thus, the pending claims are more clearly distinguished over HAMAKI.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 13-27 are not disclosed in HAMAKI cited by the Examiner.

The pending claims are submitted to also be patentable over the Examiner's proposed combination, since none of OKAMOTO et al., YOSHIDA et al., and HAMAKI or any proper combination thereof discloses the combination of features recited in Applicant's claims 13-35.

Moreover, the Examiner has not set forth a proper motivation for combining the teachings of OKAMOTO et al. and YOSHIDA et al. with HAMAKI, since OKAMOTO et al. and YOSHIDA et al. relate to selecting one type of communication of many types of communication, while HAMAKI relates to switching between different types of communications during one transmission. There, in fact, is no motivation for combining teachings from devices that select one communication mode from a plurality of modes with a device that combines two communication types in a single transmission.

Applicant's claims 28-30 and 32-34 also relate to a receiving modem and a communication control apparatus that transmits, as a facsimile control signal, a DIS signal specified in ITU Recommendation T.30, communicates with the transmitting modem based on the communication procedure specified in ITU Recommendation V.8 when a CM signal is detected while awaiting the response signal to the facsimile control signal, facsimile communicates with the transmitting modem based on the communication procedure specified in ITU Recommendation T.30 when a DCS signal specified in ITU Recommendation T.30 is detected while awaiting the response signal to the facsimile control signal, and data communicates with the transmitting modem when a signal used in data communication is detected while awaiting the response signal to the facsimile control signal. The data communication does not include voice communication and is in accordance with a defined communication procedure.

Applicant's claims 31 and 35 also relate to a receiving modem and a communication control apparatus that transmits, as a data communication signal, an AC

signal specified in at least one of Recommendation V.22 and V.23, communicates with the transmitting modem based on the communication procedure specified in ITU Recommendation V.8 when a CM signal is detected while awaiting the response signal to the data communication signal, data communicates with the transmitting modem when a signal used in data communication is detected while awaiting the response signal to the data communication signal, and sets a telephone mode for voice communication when a response to the data communication signal is not detected. The data communication does not include voice communication and is in accordance with a defined communication procedure.

In contract, as the Examiner admits in the outstanding Official Action mailed on August 25, 2004, OKAMOTO et al. and YOSHIDA et al. in combination do not teach a data communication not including voice communication. Thus, the pending claims are clearly distinguished over the combination of OKAMOTO et al. and YOSHIDA et al.

Further, OKAMOTO et al. and YOSHIDA et al. do not disclose a controller that executes one of three types of communications, e.g., a communication based on V.8, a facsimile communication, and a data communication, based on a detected response to the signal, e.g., the DIS signal transmitted from the transmitter. Thus, the pending claims are completely distinguished over the combination of OKAMOTO et al. and YOSHIDA et al.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 28-35 are not disclosed in the combination of OKAMOTO et al. and YOSHIDA et

al. cited by the Examiner. Thus, the pending claims are submitted to also be patentable over the Examiner's proposed combination.

HAMAKI relates to mixed data communications according to TDMA/FDD, as explained above. HAMAKI switches between two different types of communications during one transmission. Thus, HAMAKI does not disclose a controller that executes one of three types of communications, e.g., a communication based on V.8, a facsimile communication, and a data communication, based on a detected response to the signal, e.g., the DIS signal transmitted from the transmitter. Thus, the pending claims are completely distinguished over HAMAKI.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 28-35 are not disclosed in HAMAKI cited by the Examiner. The pending claims are also submitted to also be patentable over the Examiner's proposed combination, since none of OKAMOTO et al., YOSHIDA et al., and HAMAKI or any proper combination thereof disclose a controller that executes one of three types of communications, as recited in claims 28-35.

Moreover, the Examiner has not set forth a proper motivation for combining a combination of OKAMOTO et al. and YOSHIDA et al. with HAMAKI, since OKAMOTO et al. and YOSHIDA et al. relate to selecting one type of communication from two types of communications, while HAMAKI relates to switching between two different types of communications during one transmission.



P19202.A11

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection and an indication of the allowability of all the claims pending in the present application in due course.

SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has pointed out the shortcomings of the references relied on by the Examiner with respect to the pending claims. Applicant also has amended the pending claims for consideration by the Examiner. With respect to the submitted claims, Applicant has pointed out the features thereof and has contrasted the features of the submitted claims with the disclosure of the references.

Accordingly, Applicant has provided a clear evidentiary basis supporting the patentability of all claims in the present application and respectfully requests an indication of the allowability of all the claims pending in the present application in due course.

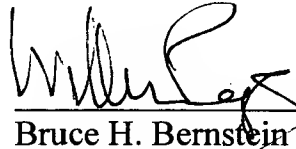
Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

P19202.A11

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Akira ATSUTA

---



Bruce H. Bernstein  
Reg. No. 29,027

RNO 33430

October 25, 2004  
GREENBLUM & BERNSTEIN, P.L.C.  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191